

### Judge Mathias, cont.

topics to attorneys and judges. Throughout the 2000s, he helped select and implement the Odyssey Case Management System that brought the management of Indiana's court records into the 21st Century. More recently, Judge Mathias has been appointed by the Indiana Supreme Court to lead a statewide court technology effort, including implementation of e-filing.

Judge Mathias is a longtime supporter of *We the People*, a national civics education program sponsored in Indiana by the Indiana Bar Foundation. He coaches high school *We the People* teams in Indiana's 5th Congressional District and helps organize *We the People* competitions in the 3rd Congressional District.

In 2010, he received the Indiana Bar Foundation's William G. Baker Civic Education Award for his work in civics education.

Judge Mathias has been married for 39 years and is the proud father of two sons who teach at the high school level. His wife, Carlabeth, is a private practice counselor for children and families and a consultant to schools throughout Indiana.

Judge Mathias enjoys Macintosh computers, technology in general and photography. He also enjoys spending many Saturdays during the school year helping to build theatrical sets for Hamilton Southeastern High School.

### Judge Vaidik, cont.

range of honors including the 1996 Indiana Domestic Violence Coalition Judge of the Year and the 1997 Indiana Judges Association Special Merit Award.

Judge Vaidik was appointed to the Court of Appeals in February 2000 by Governor Frank O'Bannon and was retained by election in 2002 and 2012. Because Judge Vaidik sees the Court of Appeals at the intersection of theoretical and practical law, she believes the Court should embody the highest degree of fairness and impartiality.

This view informs her passion for teaching, as she feels that Hoosiers, and all litigants, deserve the finest possible legal advocates on their behalf. Judge Vaidik also believes that legal writing must be distinguished by logical construction and clear, explanatory prose.

She is an adjunct professor at the Indiana University Maurer School of Law and won its 2011 Adjunct Professor of the Year Award. She has served as a visiting professor at the College of Law of England and Wales and taught as an adjunct professor at Valparaiso University Law School. She has taught at many law schools and for a number of organizations including the Indiana State Bar Association, the Indiana Legal Education Forum, and the Indiana Judicial Center.

Judge Vaidik has trained lawyers involved in prosecuting Rwandan war crimes, Mexican lawyers prosecuting drug lords, and solicitor advocates seeking the rights of audience in the High Courts in Belfast, Northern Ireland. She is particularly proud of her long association with the National Institute of Trial Advocacy, which honored her with its 2007 Robert Keeton Faculty Award.

Despite her Court of Appeals caseload and her teaching, Judge Vaidik is also actively involved in a wide variety of community, legal, and judicial organizations. She served on the State of Indiana Children's Peak Performance Commission and has held many posts with the Indiana Judges Association and Indiana Judicial Center. She has been chairperson of the Judicial Education and Community Relations Committees of the Indiana Judicial Center and is a member of the American Bar Association, Indiana State Bar Association, and Sagamore Inns of Court.

She has received many other awards and honors including the 2004 Indiana State Bar Association's Women in Law Achievement Award, the 2007 Indiana Lawyer Distinguished Barrister Award, the 2003 Paragon of Justice Award from Valparaiso University Law School, and the Sagamore of the Wabash Award from two Indiana governors.

Judge Vaidik and her husband are the proud parents of twin daughters, one a medical doctor and one a lawyer, and they have two grandsons, who can choose either profession.

### Judge Barnes, cont.

the Regional Director's Citation in 1989 and 1998 for innovative and effective child support enforcement from the U.S. Department of Health and Human Services, and in 1995 received the State Director's Award

for Outstanding Child Support Program from the Indiana Family & Social Services Administration.

While Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chairman of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and various other professional and civic organizations.

The Indiana Victim Assistance Network honored him with its Special Advocate Award in 1989, and in 1998 he received the Eugene "Shine" Feller Award from the Indiana Prosecuting Attorneys Council.

Judge Barnes supports a wide range of community organizations, especially those that serve vulnerable populations. He is a longtime supporter of the LOGAN Center's annual Nose-On campaign and in 1986 received its Joseph J. Newman Award for Committed and Outstanding Advocacy on Behalf of Developmentally Disabled Individuals.

He also has served on the boards of the St. Joseph County Chapter of the American Cancer Society and the Alcoholism Council of St. Joseph County.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes is married to Alberta Barnes, a retired educator. They are the parents of two sons, Tim and John. Tim is an attorney in Washington, D.C. John is a TV producer at NBC Sports. John and his wife, Bess, are the parents of the world's most perfect granddaughter, Addison Emily.

He lives in South Bend and is an avid baseball fan and reader.

### Court of Appeals

#### Mission Statement:

*To Serve All People by Providing  
Equal Justice Under Law*

## SYNOPSIS

Phillip Whitley was charged in Marion Superior Court with Class A felony dealing in methamphetamine, Class C felony possession of methamphetamine, Class D felony possession of a controlled substance, and Class A misdemeanor driving while suspended.

The evidence supporting the charges was discovered during an inventory search of the vehicle Whitley was driving. Whitley filed a motion to suppress this evidence, arguing that the warrantless search of the vehicle violated his constitutional rights under the Fourth Amendment and Article 1, Section 11.

The trial court denied Whitley's motion to suppress, certified its decision and our court has accepted jurisdiction of this interlocutory appeal.

**At approximately** 12:35 a.m. on Feb. 20, 2014, Indianapolis Metropolitan Police Officer Frederick Lantzer initiated a traffic stop of a pickup truck because it displayed a passenger car license plate. The license plate was also registered to a different vehicle. Whitley, the driver of the truck, provided his name to Officer Lantzer and admitted that he lacked a valid driver's license.

After Whitley was unable to produce the truck's registration, the officer confirmed that the truck was not registered to Whitley and that his driver's license was suspended.

Officer Lantzer decided it was necessary to impound the truck, and IMPD Officer Tim Huddleston conducted the administratively required inventory search roadside.

During the search, the officer discovered a "decorative box" on the front passenger's seat containing a substance later identified as more than seven grams of methamphetamine, a lighter, a package of rolling papers, a money clip, a burnt marijuana cigarette, and a pill bottle.

The pill bottle contained two alprazolam pills and eight clonazepam pills, Schedule IV prescription drugs for which Whitley had no prescriptions.

Whitley was searched incident to his

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## Court of Appeals of Indiana

*Hearing oral argument at*

**Indiana Tech Law School**

***Wednesday, Oct. 21, 2015 @ 1 p.m.***



***Whitley v. State***

**49A02-1501-CR-50**

***On Appeal from Marion Superior Court  
The Honorable Steven R. Eichholtz, Judge***



## Synopsis, cont.

arrest and a glass pipe commonly used to smoke methamphetamine was found in his pocket. He also had \$1,135 in his wallet.

On Feb. 24, 2014, Whitley was charged with Class A felony dealing in methamphetamine, Class C felony possession of methamphetamine, Class D felony possession of a controlled substance, and Class A misdemeanor driving while suspended. On Sept. 10, 2014, Whitley filed a motion to suppress the evidence seized during the search of the truck, arguing that the warrantless search violated his rights under the Fourth Amendment and Article 1, Section 11.

At the hearing held on Whitley's motion, the trial court admitted into evidence the IMPD's General Order 7.3 on Towing and Impounding Vehicles. The order states that an IMPD officer may impound a vehicle if it is "[b]eing operated by a non-licensed or suspended driver" and defines a vehicle inventory search as "an administrative, routine and warrantless search of the passenger area (including the glove compartment), trunk, and closed containers[.]"

The order also provides that inventory searches "should not be motivated by an officer's desire to investigate and seize evidence of a criminal act." And "[w]henver an officer takes a vehicle into custody, an inventory search will be conducted prior to impoundment and a detailed listing of any property found in the vehicle will be made." The order also directs the officer to search all containers. Finally, the order requires all property discovered during an inventory search to "be listed in the officer's personal notebook."

Officer Lantzer testified that the truck was impounded because the owner was not identified to the officers and it was parked halfway in the roadway blocking a lane of traffic.

Officer Huddleston performed the inventory search, but did not complete any related paperwork. He told Officer Lantzer what he found in the truck, and Officer Lantzer listed certain items in the probable cause affidavit. Photographs taken of the interior of the truck by the evidence technician after Officer Huddleston's search established that there were personal items in the truck that were not listed

by Officer Lantzer in the probable cause affidavit.

On Nov. 25, 2014, the trial court issued its order denying Whitley's motion to suppress. In its order, the court observed that the parties agreed that impoundment of the truck was proper, but also concluded that the procedures outlined in the IMPD's General Order 7.3 on Towing and Impounding Vehicles were not followed.

Specifically, the court noted that Officer Huddleston "did not list any items" found during the inventory search: "not in the officer's personal notebook, not on the tow slip, or anywhere else."

However, Officer Lantzer listed items discovered during the inventory search in his probable cause affidavit. Therefore, the court concluded that "there is nothing to indicate that this was anything other than a routine inventory search and was not a pretext for a narcotics investigation."

Thereafter, Whitley filed a motion requesting that the trial court certify its order denying his motion to suppress for interlocutory appeal. The trial court granted his motion, and on Feb. 6, 2015, our court accepted jurisdiction of Whitley's interlocutory appeal.

**As an initial matter**, the State argues that Whitley had no reasonable expectation in the truck for the purposes of the Fourth Amendment and no standing to challenge the search under Article 1, Section 11 of the Indiana Constitution. Because the State failed to raise these arguments to the trial court, Whitley argues that the State may not raise these issues for the first time on appeal.

Whitley concedes that the IMPD properly impounded the truck, but argues that the inventory search violated his Fourth Amendment rights under the United States Constitution and his Article 1, Section 11 rights under the Indiana Constitution. He contends that the inventory was a pretextual search for evidence of a crime, which is established by the fact that IMPD did not follow standard police procedures.

The State agrees that the IMPD officer failed to list the items in the truck in the officer's personal notebook and that only certain items found in truck were listed in the probable cause affidavit. But inventory searches are not always considered unreasonable when standard police policy is not followed.

## Attorneys for the Parties

### For the Appellant

**David R. Hennessy** was born and raised in Evansville. He attended Memorial High School and entered the University of Notre Dame in 1972, the first year that women were admitted. Mr. Hennessy graduated from Notre Dame in 1976 with a BBA in Marketing and went to work for Arvin Industries out of Columbus, Indiana, in the firm's Detroit sales office. He attended Indiana University Law School-Indianapolis from 1979-1982. In 1982 he borrowed against his 1978 Ford Pinto to open a law practice and has been a sole practitioner ever since, concentrating his practice in criminal defense, both trial and appellate work. Mr. Hennessy has served on the Board of Directors of the Indiana Public Defender Council since 1984 with four terms as chairman. He served six years on the Board of the Marion County Public Defender Agency and is a past president of the Notre Dame Club of Indianapolis.

He is a Distinguished Fellow of the Indianapolis Bar Foundation and was a member of the American Inn of Courts. He is active in neighborhood, youth-sports and church affairs.

### For the Appellee

**Chandra K. Hein** has been employed with the Office of the Indiana Attorney General since 2011. She began as a Deputy Attorney General in the Criminal Appeals Section in 2012. Ms. Hein was raised in Spokane Valley, WA and graduated from Samford University in 2006, majoring in Music. She earned her law degree from Indiana University Robert H. McKinney School of Law in 2012, where she was a member of the Order of the Barristers, served on the moot court board, competed at the Mardi Gras Sports Law National Moot Court Competition, and was president of the Federalist Society. In a prior career, she worked for the Florida House of Representatives.

## Today's Panel of Judges



**The Honorable  
Paul D. Mathias**

**Allen County**

**Paul D. Mathias** is a fifth-generation Hoosier who deeply believes that Indiana is a special place to live. He is honored to serve on the Court of Appeals, where he strives daily to reflect and protect Hoosier values within the law.

Judge Mathias practiced law in Fort Wayne, concentrating in construction law, personal injury, and appellate practice. He was appointed Referee of the Allen County Small Claims Court in 1985 and served as Judge of the Allen Superior Court from 1989-2000 when he was appointed to the Court of Appeals. In 2002 and 2012, he was retained by election to the court.

Judge Mathias's professional achievements are rooted in a strong educational foundation. He attended the public schools in Fort Wayne, where he was a National Merit Finalist and scholarship recipient. In 1976 Judge Mathias graduated *cum laude* from Harvard University with a bachelor's degree in General Studies, concentrating in Government. He earned his law degree in 1979 from Indiana University School of Law-Bloomington, where he was a member of the Sherman Minton Moot Court Team and the *Order of Barristers*.

Judge Mathias was an officer of the Indiana Judges Association from 1993-1999 and its president from 1997-1999. He is deeply honored to be one of only 92 Hoosiers to receive the Centennial Service Award from the Indiana State Bar Association, and he was named a Sagamore of the Wabash by two governors.

Judge Mathias is keenly interested in the intersection of law and technology and often consults and speaks on tech

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**The Honorable  
Nancy H. Vaidik**

**Porter County**

**Nancy H. Vaidik** is a judge and a teacher with broad experience in both trial and appellate courts and in legal classrooms. She has an expertise in trial advocacy and appellate advocacy, with a strong background in the rules of evidence and legal mediation.

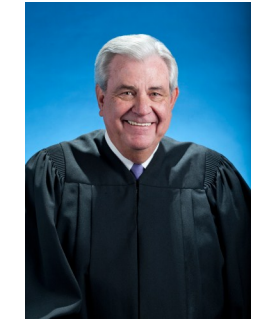
Judge Vaidik was selected by her colleagues as **chief judge** of the Court of Appeals for a three-year term beginning Jan. 1, 2014.

Judge Vaidik grew up in Portage, Indiana, and is a sixth-generation Hoosier who retains strong ties to her home town. She graduated with high distinction from Valparaiso University in 1977, with a double major in political science and psychology, and then studied at Valparaiso University Law School, where she earned her Juris Doctor in 1980.

Her early years as deputy and then chief deputy Porter County prosecutor provided the grounding for her judicial career. As an attorney, she tried over seventy-five jury trials and founded the Porter County Victims Assistance Unit, the Porter County Sexual Assault Recovery Project, the Domestic Violence Service, and the Valparaiso University Law School Mediation Clinic. She also served on the Porter County Community Corrections Board and led a countywide task force that spearheaded the eventual construction of a new county jail. After serving as a prosecutor, she went into private practice and specialized in domestic relations, probate, municipal law, and general litigation. She represented Caring Place, Inc., a shelter for battered women in Valparaiso.

From 1992 to 2000, she served as the judge of the Porter Superior Court. During her tenure on the trial court, Judge Vaidik was awarded a wide

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**The Honorable  
Michael P. Barnes**

**St. Joseph County**

**Michael P. Barnes** was appointed to the Court of Appeals of Indiana in May 2000 after long service as the St. Joseph County Prosecuting Attorney. He was retained on the Court by election in 2002 and 2012 and served as Presiding Judge of the 3rd District from 2009 through 2011.

In 2012 he wrote 144 majority opinions for the Court of Appeals. Judge Barnes was born and raised in rural Illinois. He earned a B.A. in History at St. Ambrose College in Davenport, IA in 1970 and received his J.D. in 1973 from the University of Notre Dame Law School.

He practiced law from 1973-78 at the South Bend law firm of Voor, Jackson, McMichael and Allen, while also serving as Deputy Prosecuting Attorney. Voters chose him in 1978 to be the St. Joseph County Prosecuting Attorney, an office he held for 20 years over five elections.

While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community. Judge Barnes also created a domestic and family violence unit in the Prosecutor's office and launched a pretrial diversion program for nonviolent misdemeanor offenders that served as a model for successful state legislation. The domestic and family violence unit focused solely on crimes against women and children, including abuse and neglect.

Judge Barnes personally tried more than 25 murder and other major felony cases while overseeing a staff of 12 to 15 deputy prosecutors. His efforts to collect delinquent child support payments garnered more than \$100 million for children in St. Joseph County. For those efforts, he received

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